

TENNESSEE BOARD OF FUNERAL DIRECTORS AND EMBALMERS

MINUTES OF BOARD MEETING

SEPTEMBER 12, 2006

President Danny Cook called the meeting to order at 10:07 A.M. in Conference Room 160, Davy Crockett Tower, Nashville, Tennessee.

Board members present were Danny Cook, President, Bob Foster, Wendy Hellum, David Murphy, and Stephen Murphy. Absent were Ralph Buckner, Vice President, and Nancy Vincent.

Staff members present were Robert B. Gribble, Executive Director, Lauren L. Kitchell, Staff Attorney, and Sandra K. Cooper, Administrative Assistant.

APPROVAL OF MINUTES:

A motion was made by Mr. David Murphy to approve the minutes of the August 8, 2006 Board Meeting.

Seconded by Mr. Foster

Adopted by voice vote

APPROVAL OF FUNERAL DIRECTOR LICENSES: Upon motion, based upon the application records, the following applicants were approved for licensure.

**James Leon Neuble, Jr.
Mount Juliet, TN**

Funeral Director

**Robert J.L. Silva
Clinton, TN**

Funeral Director

APPROVAL OF ESTABLISHMENT LICENSES:

Upon motion, based upon the application records, the following establishments were approved for licensure.

**House of Hatch Funeral Home, Inc.
Nashville, TN**

**Change of Location
Ownership: Corporation**

**Covington Funeral Home
Covington, TN**

**Change of Ownership
New Ownership: LLC**

**Hall Funeral Home, LLC
Livingston, TN**

**New Establishment
Ownership: LLC**

LEGAL REPORT:

LAUREN L. KITCHELL, STAFF ATTORNEY

Complaint Review

1. Case No.: L06-FUN-RBS-2006027501

Complaint is based on a news report that a body had been mangled at the FH when they went to see the body 12 hours after death; the article also says that it took nearly two weeks for the body to be cremated. The family members believe that the body was involved in some sort of accident.

The FH responds that the body was never mangled at the FH and the body was handled properly at all times. When the mother of the deceased came to the FH 12 hours after they picked up the body, she asked them why his face was discolored. The FD told her that the discoloration or hypostasis was natural and that if the body was embalmed it would not have this discoloration. They state that the cremation was delayed pending proper signature of the death certificate and payment of the cremation expense.

Complaint History: None

Recommendation: Letter of Caution

A motion was made by Mr. David Murphy to accept Counsel's recommendation.

Seconded by Mr. Foster

Adopted by voice vote

2. Case No.: L06-FUN-RBS-2006020591

Complaint is the result of an inspector's notice of violation which alleges: cremated remains were found with no permanent ID device; some receipts for delivery of the remains were not signed by the person delivering remains to the crematory; some receipts do not have the time of delivery; some receipts did not have the type of container remains were delivered in; some receipts for releasing did not have the signature of the person releasing remains or the time; one authorization did not have the telephone number of the crematory; and one authorization was not signed by a FD.

The establishment is now closed, and the equipment has been sold.

Complaint History: None

Recommendation: Close

A motion was made by Mr. Steve Murphy to accept Counsel's recommendation.

Seconded by Mr. David Murphy

Adopted by voice vote

3. Case No.: L06-FUN-RBS-2006030171

Complaint is the result of an inspector's notice of violation which alleges: FTC violations, including deficiencies on the CPL and statement of goods and services.

FH promptly sent in copies of the corrected CPL and goods and services statement. The manager apologizes for the oversight stating that it was a printing error.

Complaint History: None

Recommendation: Consent Order assessing \$250 civil penalty and authorization for a formal hearing.

A motion was made by Mr. David Murphy to accept Counsel's recommendation.

Seconded by Mr. Foster

Adopted by voice vote

4. Case No.: L06-FUN-RBS-2006029241

Complainant alleges that the respondent FH was in charge of funeral services for a family member. She alleges that when they arrived at the cemetery none of the following had been done: grave was not ready, tent was not set up, family waited three hours for the grave setup. Complainant alleges that the FH did not check to see that the cemetery had prepared the gravesite.

FH states that proper procedures were followed according to funeral rules and regulations. They state that a representative from the FH accompanied the family to the office of the cemetery to secure the burial site, including the time and day of the ceremony. The FH states that every effort was made on behalf of the FH and the problems were caused by the cemetery and not the FH.

Complaint History: 2005-\$1250 civil penalty (permanent ID not on remains, FTC violation, cremation authorization deficiency), 2006-\$500 civil penalty (cremation authorization not retained at FH, FTC violation)

Recommendation: Dismiss

A motion was made by Mr. Steve Murphy to accept Counsel's recommendation.

Seconded by Mr. David Murphy

Adopted by voice vote

5. Case No.: L06-FUN-RBS-2006030421

Complainant alleges that the FH did not honor an old burial policy entered into in 1933. The complainant's grandfather died in 1955. She called the number on the policy but the FH told her that the policy was made by another funeral home and they would not honor the old policy entered into by a previous business. Complainant alleges that the family paid for the expenses.

The FH responds that the complaint concerns a funeral that took place 50 years ago. The FH has no record of the funeral or membership in the FH's burial association. They feel that the complaint has no merit. They have been in contact with the complainant and they explained to him that they have no record of his grandfather being a member of the burial association. They state that the complainant found the old receipt in his mother's papers from 1933.

Complaint History: 2005-\$500 civil penalty (FTC)

Recommendation: Dismiss

A motion was made by Mr. David Murphy to accept Counsel's recommendation.

Seconded by Mr. Steve Murphy

Adopted by voice vote

6. Case No.: L06-FUN-RBS-2006031911

Complaint is the result of an inspector's notice of violation which alleges: the cremation authorization forms lacked the name, address and telephone number of the crematory; one authorization was not signed by the funeral director. The inspector also noted an FTC violation on the CPL.

FH promptly sent in a copy of the corrected CPL and cremation authorization form. The FH responds that the one authorization was an oversight by the funeral director in charge, and they apologize for this mistake.

Complaint History: None

Recommendation: Consent Order assessing \$500 civil penalty and authorization for a formal hearing.

A motion was made by Mr. David Murphy to accept Counsel's recommendation.

Seconded by Mr. Steve Murphy

Adopted by voice vote

7. Case No.: L06-FUN-RBS-2006031571

Complaint deals with a cemetery.

Complaint History: None

Recommendation: Transfer to Burial Services

A motion was made by Mr. Steve Murphy to accept Counsel's recommendation.

Seconded by Mr. David Murphy

Adopted by voice vote

8. Case No.: L06-FUN-RBS-2006030121

Complaint is the result of an inspector's notice of violation which alleges: an unlicensed person was performing cremations. The inspector interviewed an unlicensed assistant because the manager was out of town on the day of inspection. The person told the inspector that he was not licensed and that he performs cremations when the manager is not present to perform them. The assistant told the inspector that he had performed three cremations that day.

The establishment admits to the unlicensed activity and apologizes for their misunderstanding of the law. The unlicensed assistant is a certified crematory operator (Cremation Association of North America) and has worked at the crematory for ten years. They respond that in the future, under no circumstances will anyone who is not licensed be allowed to perform or operate the crematory.

Complaint History: None

Recommendation: Consent Order assessing \$2000 civil penalty and authorization for a formal hearing.

A motion was made by Mr. David Murphy to accept Counsel's recommendation.

Motion died for lack of a second.

A motion was made by Mr. Steve Murphy to issue a Letter of Warning.

Seconded by Mr. Foster

Adopted by voice vote

9. Case No.: L05-FUN-RBS-2006031931

Complaint is the result of an inspector's notice of violation which alleges: FTC violations, including deficiencies on the GPL, CPL and goods and services contracts. The inspector also noted that the current license of the funeral director, embalmer and funeral establishment license were not available for inspection, and the ventilation fan in the preparation room was not working.

The FH sent in a copy of the corrected GPL, CPL and goods and services contract. They also sent in a copy of the receipt to have the fan fixed and state that it is now working properly.

Complaint History: None

Recommendation: Consent Order assessing \$750 civil penalty and authorization for a formal hearing.

A motion was made by Mr. Steve Murphy to accept Counsel's recommendation.

Seconded by Mr. David Murphy

Adopted by voice vote

10. Case No.: L06-FUN-RBS-2006030161

Complaint is the result of an inspector's notice of violation which alleges: FTC violations, including deficiencies on the goods and services contracts (the reason for embalming was not filled in on several contracts), GPL, CPL and OBCPL. The inspector states that some of the corrections were made onsite.

The FH sent in the corrected price lists and all funeral directors have been reminded to fill in the reason for embalming.

Complaint History: 2005-\$500 civil penalty; 2005-\$1500 civil penalty

Recommendation: Consent Order assessing \$250 civil penalty and authorization for a formal hearing.

A motion was made by Mr. Steve Murphy to accept Counsel's recommendation.

Seconded by Mr. David Murphy

Adopted by voice vote

11. Case No.: L06-FUN-RBS-2006031951

Complaint is the result of an inspector's notice of violation which alleges: FTC violations, including deficiencies on the goods and services contracts, GPL, CPL and OBCPL. The inspector noted that the manager had been fired from the

funeral home the week before the inspection and the violations on the price lists appeared to be almost deliberate, made in an attempt to get back at the FH for the termination. The inspector also noted that the written receipt for receiving cremated remains was not available. The current licenses of the funeral directors were not available for inspection.

The FH states that the employee who was fired a few days before the inspection made changes to the price lists to make them in violation of the law. They apologize for the errors and they sent in copies of corrected price lists.

Complaint History: None

Recommendation: Consent Order assessing \$250 civil penalty and authorization for a formal hearing.

A motion was made by Mr. Steve Murphy to issue a Letter of Warning.

Seconded by Ms. Hllum

Adopted by voice vote

12. & 13. Case Nos.: L06-FUN-RBS-2006017271, L06-FUN-RBS-2006016141

The Complainant alleges that the Respondent, a licensed funeral director, employed by Respondent, a licensed establishment, and a TN licensed insurance agent, went to a nursing home where her mother is a patient. Complainant alleges that the Respondent and the insurance agent persuaded her mother, by making offers of discounts, to transfer her funeral prearrangement from another local funeral home to Respondent FH, and persuaded her to make a living will. The Complainant alleges that her mother is not capable of making these decisions at present. The complainant alleges that she called the Respondent funeral home and they told her that a nurse from the nursing home called them to come to the nursing home. Complainant states that she spoke with the nursing staff and was told that they never contacted Respondent or the insurance agent. Complainant states that her mother has congestive heart failure and had a stroke before the Respondents went to her. She also states that her mother has trouble remembering things like birthdays and sometimes does not even know who her children are.

An investigation revealed that the Respondent FD went to the nursing home because the insurance agent/employee of the FH, told her that his good friend, the complainant's mother, wanted to have her prearranged funeral transferred to Respondent FH and she wanted a living will. Respondent states that she went to the rehabilitation center with the insurance agent introduced herself and asked what she could do for the complainant's mother. She states that the mother told her she wanted her funeral transferred to Respondent FH and that she wanted a

living will. She states that she prepared the appropriate paper work and the mother signed the papers and she notarized them. Respondent denies offering or giving discounts or soliciting business from the complainant's mother.

Complaint History: None

Recommendation: Dismiss

A motion was made by Mr. Foster to accept Counsel's recommendation.

Seconded by Ms. Hllum

Adopted by voice vote

14. & 15. Case Nos.: L06-FUN-RBS-2006003591, L06-FUN-RBS-2006003601

Respondent FD and embalmer was indicted with making a false statement on a death certificate in 1993 by falsely identifying themselves as a licensed funeral director in the State of Georgia. The Superior Court of Georgia placed the case on a dead docket making the case inactive, which means it will ultimately be dismissed.

Complaint History: None

Recommendation: Letter of Caution

A motion was made by Mr. David Murphy to accept Counsel's recommendation.

Seconded by Ms. Hllum

Adopted by voice vote

16. & 17. Case Nos.: L06-FUN-RBS-2006015201, L06-FUN-RBS-2006015211

Respondent FD and Embalmer was indicted with one count of official misconduct, one count of theft of property, one count of issuing a worthless check, and one count of destruction and tampering with government records. The defendant was placed on Pre-Trial Diversion for two (2) years, which means if the respondent is not convicted of a misdemeanor or felony within the two (2) years, the indictment will be dismissed with prejudice and forever barred. If the respondent is convicted within the two (2) years, then the prosecution is free to proceed with the indictment in the action.

Complaint History: None

Recommendation: Letter of Caution

A motion was made by Mr. David Murphy to accept Counsel's recommendation.

Seconded by Ms. Helling

Adopted by voice vote

18. Case No.: L06-FUN-RBS-2006032471

Complaint is the result of an inspector's notice of violation which alleges: a permanent ID device attached to the human remains did not contain the DOB for the deceased. The FH told the inspector that another FH received the deceased and placed the device on the remains. The inspector also noted that there were FTC violations, including deficiencies on the GPL and OBCPL.

The FH responds that the DOB was on the ID tag. They state that they told the inspector that the DOB was on the back of the device but he did not check the back probably due to the fact that the stockings would not have permitted it. The FH disagrees with the inspector's FTC violations but they have made the corrections.

Complaint History: 2005- \$750 civil penalty (FTC violations)

Recommendation: Consent Order assessing \$250 civil penalty and authorization for a formal hearing. Letter of Warning for the ID device lacking all of the required information.

A motion was made by Mr. Steve Murphy to accept Counsel's recommendation.

Seconded by Mr. Foster

Adopted by voice vote

**ADMINISTRATIVE MATTERS:
ROBERT B. GRIBBLE, EXECUTIVE DIRECTOR**

Closed Establishments

There have been three establishments reported as being closed since the last board meeting.

- **Huntland Funeral Home, 360 Main Street, Huntland**
- **Anderson Funeral Home, 407 East Gore Avenue, Gainesboro**
- **Upper Cumberland Cremation Services, 280 Bob Johnson Lane, Cookeville**

Disciplinary Action Report

The Board has previously authorized these consent orders and civil penalties. The Consent Orders have been signed and the civil penalties paid by the respondents. The Executive Director requests the Board's acceptance of the following consent orders.

Complaint No. 2006022371

Violation: FTC price violations

Action: \$250 Civil Penalty

Complaint No. 2006022391

Violation: Deficiency on GPL and CPL not available for inspection

Action: \$250 Civil Penalty

Complaint No. 2006024871

Violation: Required permanent ID device not affixed to the remains in a casket

Action: \$250 Civil Penalty

Complaint No. 2006022321

Violation: Deficiency on GPL and charging for washing and disinfecting of remains which is part of the charge for embalming when embalming is authorized

Action: \$250 Civil Penalty

Complaint No. 2006022351

Violation: Deficiency on GPL and charging for washing and disinfecting of remains which is part of the charge for embalming when embalming is authorized

Action: \$250 Civil Penalty

Complaint No. 2006024891

Violation: Required permanent ID device not affixed to the remains in a casket, embalming room ventilation exhaust fan not working properly and deficiency on OBCPL

Action: \$500 Civil Penalty

A motion was made by Mr. Steve Murphy to accept the report.

Seconded by Mr. Foster

Adopted by voice vote

Open Complaint Report

As of September 8, 2006, there were a total of 71 open complaints.

October Board Meeting

Executive Director Robert Gribble suggested no board meeting in October.

A motion was made by Mr. Steve Murphy to cancel the October board meeting.

Seconded by Mr. Foster

Adopted by voice vote

ADJOURN:

A motion was made by Mr. Steve Murphy to adjourn.

Seconded by Mr. David Murphy

Adopted by voice vote

There being no further business, the meeting was adjourned at 10:48 A.M.

Respectfully submitted,

Robert B. Gribble

Robert B. Gribble, CFSP
Executive Director